

## SUMMARY ANALYSIS OF AMENDED BILL

Author: Bowen Analyst: Kristina E. North Bill Number: SB 168  
Related Bills: See Prior Analyses Telephone: 845-6978 Amended Date: July 5, 2001  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Personal Information Confidentiality/Identity Theft

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended June 14, 2001.

☒ FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Support, if amended.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 14, 2001, STILL APPLIES.

☒ OTHER - See comments below.

**SUMMARY**

This bill would:

- ◆ Grant consumers the right both to verify and to authorize the issuance of their consumer credit report information. The department would be exempt from these provisions for activities related to the investigation or collection of delinquent taxes.
- ◆ Reduce the use of social security numbers (SSNs) as personal identifying numbers.

This bill also would make changes to the Civil Code with regard to consumer credit reporting agencies. These changes do not affect the department and are not discussed in this analysis.

**SUMMARY OF AMENDMENT**

The July 5, 2001, amendments made changes to the consumer credit report portion of the bill that do not impact the department.

The June 28, 2001, amendments partially resolved one implementation concern by providing a definition for "publicly post or display." However, clarification for terms used in the new definition would be necessary as discussed in the new implementation concern added below.

Board Position:

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_____ N	_____ OUA	_____ PENDING

Legislative Director

Date

Brian Putler

07/26/01

The June 28, 2001, amendments specified that the SSN portion of this bill does not apply to records made available to the public by certain judicial entities such as the California Supreme Court, Court of Appeal, Superior court, and Municipal Court.

The June 28, 2001, amendments also made changes to the bill that did not impact the department. Except for the changes discussed above, the remainder of the department's analysis of this bill as amended June 14, 2001, still applies. The remaining implementation concerns and technical concerns that still apply are restated below.

## **POSITION**

Support, if amended.

At its June 27, 2001, meeting, the Franchise Tax Board (FTB) voted 2-0 to take a support position if the bill is amended to exclude FTB from the SSN provisions of this bill (as amended June 14, 2001, and introduced February 23, 2001), with Annette Porini, on behalf of Member B. Timothy Gage, abstaining.

## ***CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS***

### **IMPLEMENTATION CONSIDERATIONS**

- ◆ Clarification is needed to understand the author's intent for the new definition of "publicly post or display." The term "intentionally" is subjective and it is unclear what parameters would be used to determine whether an SSN was "intentionally" publicly posted or displayed. Additionally, the meaning of "general public" is unclear. For example, if a wage garnishment containing a taxpayer's SSN was filed with a taxpayer's employer for failure to pay taxes or failure to pay child support, it is unclear if the SSN would be considered intentionally posted or displayed to the general public.
- ◆ The author's office indicated that it was not its intent to require FTB to cease using SSNs as identifying numbers and has requested that the department provide language to specify that this section not apply to FTB to the extent needed to fulfill its statutory obligations. Amendment 1 is provided to address this issue. Without this amendment, FTB could be precluded from using SSNs on materials mailed to a taxpayer, including but not limited to refund checks, correspondence regarding the taxpayer's account, and related documents.
- ◆ Although state and federal laws require the SSN to be used as the identifying number for individual taxpayers, it does not specifically *require* the use of the SSN on every document that may be mailed to a taxpayer. FTB also uses SSNs when filing tax liens, wage assignments, and bank levies against delinquent taxpayers. SSNs are used to assure proper identification by the county recorders as well as other entities. Thus, without a specific law allowing FTB to use the SSN on all necessary documents, FTB may be unable to gather and provide information essential to fulfill its statutory obligations.

- ◆ Additionally, documents containing SSNs may become public. Documents such as tax liens, wage assignments, and bank levies include the taxpayer's SSN for identification and become known to third parties, usually banks and employers. Thus, FTB could be precluded from effectively meeting its statutory requirements by unintentionally making an SSN "public" in this manner.
- ◆ Definitions are needed for "continuous," "secure," "internal verification," and "administrative purposes."

Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

### TECHNICAL CONSIDERATION

Internally inconsistent language exists within the exception provided in this bill. Two of the four conditions required to "continue to use" an SSN specifically require the "termination of use" of the SSN. Thus, it is unclear how a person or entity may *continue* to use an SSN when two of the conditions of continued use would result in the specific cessation of use of the SSN. One of the two inconsistent conditions is that the person or entity seeking to continue use of an SSN must process a written request from an individual to cease using his or her SSN within 30 days. The other inconsistent condition is the prohibition from denying services to an individual who has requested cessation of use of his or her SSN. Thus, to be allowed to "continue" to use an SSN, a person or entity must comply with an individual's request to cease using his or her SSN and not deny services as a result of the request.

### **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 168  
As Amended July 5, 2001

**AMENDMENT 1**

On page 13, line 22, after "(f)" insert:

The provisions of this section shall not apply to the use of the social security number by the Franchise Tax Board or its agents or assigns.

(g)

**AMENDMENT 2**

On page 13, line 26, strikeout "(g)" and insert:

(h)